

AMENDED IN SENATE MAY 5, 2009

**SENATE BILL**

**No. 508**

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**Introduced by Senator Dutton**

February 26, 2009

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An act to add Sections 17053.76 and 23622.9 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 508, as amended, Dutton. Taxes: credits: qualified employees.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRAS, subject to specified criteria.

This bill would, for taxable years beginning on or after January 1, 2009, authorize a hiring credit under those respective laws for qualified taxpayers who hire qualified employees, as defined.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053.76 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 17053.76. (a) For each taxable year beginning on or after
- 4 January 1, 2009, there shall be allowed a credit against the "net
- 5 tax," as defined in Section 17039, an amount equal to the sum of

1 the following percentages of wages paid or incurred by the taxpayer  
2 during the taxable year to each qualified employee of the taxpayer:

3 (1) Twenty-five percent for each qualified employee employed  
4 by the qualified taxpayer for at least 120 hours, but less than 400  
5 hours, during the taxable year.

6 (2) Forty percent for each qualified employee employed by the  
7 qualified taxpayer for at least 400 hours during the taxable year.

8 (b) The credit under subdivision (a) shall be allowed only with  
9 respect to the first six thousand dollars (\$6,000) of wages paid or  
10 incurred during the taxable year to each qualified employee.

11 (c) For purposes of this section, all of the following definitions  
12 apply:

13 (1) "Qualified employee" means an individual who is any of  
14 the following, as documented by the Employment Development  
15 Department:

16 (A) A recipient of CalWORKs benefits.

17 (B) A parolee.

18 (C) A veteran, as defined in Section 980 of the Military and  
19 Veterans Code.

20 (D) Eligible for receipt of unemployment insurance benefits or  
21 currently receiving unemployment insurance benefits.

22 (E) *A person on probation.*

23 (2) "Qualified taxpayer" means a taxpayer that is a person or  
24 entity engaged in a trade or business within California that has its  
25 principal office located in California.

26 (d) For purposes of this section the qualified taxpayer shall do  
27 both of the following:

28 (1) Obtain a certificate from the Employment Development  
29 Department certifying that a qualified employee is employed by  
30 the qualified taxpayer.

31 (2) Retain a copy of the certification and provide it upon request  
32 to the Franchise Tax Board.

33 (e) (1) For purposes of this section:

34 (A) All employees of trades or businesses, which are not  
35 incorporated, that are under common control shall be treated as  
36 employed by a single qualified taxpayer.

37 (B) The credit, if any, allowable by this section with respect to  
38 each trade or business shall be determined by reference to its  
39 proportionate share of the expense of the qualified wages giving  
40 rise to the credit, and shall be allocated in that manner.

1 (C) Principles that apply in the case of controlled groups of  
2 corporations, as specified in subdivision (e) of Section 23622.9,  
3 shall apply with respect to determining employment.

4 (2) If an employer acquires the major portion of a trade or  
5 business of another employer (hereafter in this paragraph referred  
6 to as the “predecessor”) or the major portion of a separate unit of  
7 a trade or business of a predecessor, then, for purposes of applying  
8 this section, other than subdivision (f), for any calendar year ending  
9 after that acquisition, the employment relationship between a  
10 qualified employee and an employer shall not be treated as  
11 terminated if the employee continues to be employed in that trade  
12 or business.

13 (f) Any deduction otherwise allowed under this part for the  
14 wages or salaries paid or incurred by the qualified taxpayer upon  
15 which the credit is based shall be reduced by the amount of the  
16 credit, prior to any reduction required by subdivision (g).

17 (g) In the case where the credit otherwise allowed under this  
18 section exceeds the “net tax” for the taxable year, that portion of  
19 the credit that exceeds the “net tax” may be carried over and added  
20 to the credit, if any, in succeeding taxable years, until the credit is  
21 exhausted. The credit shall be applied first to the earliest taxable  
22 years possible.

23 SEC. 2. Section 23622.9 is added to the Revenue and Taxation  
24 Code, to read:

25 23622.9. (a) For each taxable year beginning on or after  
26 January 1, 2009, there shall be allowed a credit against the “tax,”  
27 as defined in Section 23036, an amount equal to the sum of the  
28 following percentages of wages paid or incurred by the taxpayer  
29 during the taxable year to each qualified employee of the taxpayer.

30 (1) Twenty-five percent for each qualified employee employed  
31 by the qualified taxpayer for at least 120 hours, but not less than  
32 400 hours, during the taxable year.

33 (2) Forty percent for each qualified employee employed by the  
34 qualified taxpayer for at least 400 hours during the taxable year.

35 (b) The credit under subdivision (a) shall be allowed only with  
36 respect to the first six thousand dollars (\$6,000) of wages paid or  
37 incurred during the taxable year to each qualified employee.

38 (c) For purposes of this section, all of the following definitions  
39 apply:

1 (1) “Qualified employee” means an individual who is any of  
2 the following, as documented by the Employment Development  
3 Department:

4 (A) A recipient of CalWORKs benefits.

5 (B) A parolee.

6 (C) A veteran, as defined in Section 980 of the Military and  
7 Veterans Code.

8 (D) Eligible for receipt of unemployment insurance benefits or  
9 currently receiving unemployment insurance benefits.

10 (E) *A person on probation.*

11 (2) “Qualified taxpayer” means a taxpayer that is a person or  
12 entity engaged in a trade or business within California that has its  
13 principal office located in California.

14 (d) For purposes of this section the qualified taxpayer shall do  
15 both of the following:

16 (1) Obtain a certificate from the Employment Development  
17 Department certifying that a qualified employee is employed by  
18 the qualified taxpayer.

19 (2) Retain a copy of the certification and provide it upon request  
20 to the Franchise Tax Board.

21 (e) (1) For purposes of this section:

22 (A) All employees of trades or businesses, which are not  
23 incorporated, that are under common control shall be treated as  
24 employed by a single qualified taxpayer.

25 (B) The credit, if any, allowable by this section with respect to  
26 each trade or business shall be determined by reference to its  
27 proportionate share of the expense of the qualified wages giving  
28 rise to the credit, and shall be allocated in that manner.

29 (C) Principles that apply in the case of controlled groups of  
30 corporations, as specified in subdivision (e) of Section 23622.9,  
31 shall apply with respect to determining employment.

32 (2) If an employer acquires the major portion of a trade or  
33 business of another employer (hereafter in this paragraph referred  
34 to as the “predecessor”) or the major portion of a separate unit of  
35 a trade or business of a predecessor, then, for purposes of applying  
36 this section, other than subdivision (f), for any calendar year ending  
37 after that acquisition, the employment relationship between a  
38 qualified employee and an employer shall not be treated as  
39 terminated if the employee continues to be employed in that trade  
40 or business.

1 (f) Any deduction otherwise allowed under this part for the  
2 wages or salaries paid or incurred by the qualified taxpayer upon  
3 which the credit is based shall be reduced by the amount of the  
4 credit, prior to any reduction required by subdivision (g).

5 (g) In the case where the credit otherwise allowed under this  
6 section exceeds the “tax” for the taxable year, that portion of the  
7 credit that exceeds the “tax” may be carried over and added to the  
8 credit, if any, in succeeding taxable years, until the credit is  
9 exhausted. The credit shall be applied first to the earliest taxable  
10 years possible.

11 SEC. 3. This act provides for a tax levy within the meaning of  
12 Article IV of the Constitution and shall go into immediate effect.